IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2225 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23/07/2004 in WPMP.NO. 4787 OF 2004 IN W.P.NO : 3640 OF 2004 on the file of the High Court.)

Between:

1 The Forest Range Officer, Bhupalpally North, Warangal District.
2 The Sub-Divisional Forest Officer, Mulugu, Warangal District.

..... APPELLANTS

AND

N.Sesarathnamma, w/o Ram Reddy,
r/o Tadepally, Guntur District.

.....RESPONDENT

Counsel for the Appellants : GP FOR FORESTS

Counsel for the Respondent : MR.J.PRABHAKAR

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. The appellants filed writ petition questioning the legality and validity of the order passed in C.M.A.No.40 of 1999 dated 25.03.2003 by District Judge, Warangal. Rule Nisi was issued but miscellaneous application to suspend the said order was dismissed on the ground that till main relief is granted, there cannot be any suspension of the said order passed by the District Judge.

2. Challenge is to the aforementioned order by the appellants. We have heard counsel for the parties.

3. Learned District Judge, by the order impugned in the writ petition, set aside the order of the Authorised Officer and directed release of lorry No. AP.16T 6459 in favour of the respondent without any conditions. Once such an order was challenged in the writ petition and on finding prima facie case in the writ petition when Rule Nisi was issued, interim order as prayed for ought to have been granted. Granting of such an order will, of course, be subject to the right of respondent to seek variation of the said order. Therefore, till main relief is granted, interim order cannot be passed is only misconceived. The appellants, in fact, were praying for suspension of the order impugned in the writ petition and suspension of the same will not have the effect of allowing

the writ petition. Accordingly we allow the appeal, set aside the impugned order and allow WPMP.No.4787 of 2004 and grant suspension of the order passed in C.M.A.No.40 of 1999 dated 25.03.2003. Liberty is, however, reserved to the respondent to seek variation of the order and as and when such an application is filed, it will be decided strictly in accordance with law. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 18.01.2005.

VRK.

Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

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W.A.NO. 2225 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 18.01.2005.